

CAUSE NO. 153-325307-21

**Shamika Whitfield;
Plaintiff,**

V.

City of Fort Worth Defendant.

IN THE DISTRICT COURT

153rd JUDICIAL DISTRICT

TARRANT COUNTY, TEXAS

DEFENDANT CITY OF FORT WORTH'S ORIGINAL ANSWER

COMES NOW Defendant City of Fort Worth, Defendant herein, and files its Original Answer to Plaintiff's Original Petition and respectfully shows this Honorable Court as follows:

I. GENERAL DENIAL

1. Defendant City of Fort Worth generally denies each and every, all and singular, allegations contained in Plaintiff's Original Petition and demands strict proof thereof by a preponderance of the credible evidence.

II. AFFIRMATIVE DEFENSES

2. Plaintiff's claims are barred by the statute of limitations.
 3. Plaintiff's Original Petition has failed to state a claim upon which relief may be granted.
 4. Defendant City of Fort Worth violated no duty owed to Plaintiff.
 5. Without waiving any of the foregoing, to the extent that Plaintiff seeks exemplary damages under common law from the City, such damages are not allowed for under common law, a municipality is immune from exemplary damages.

6. Without waiving any of the foregoing, the City, a Texas home-rule municipality and a governmental unit, specifically pleads, and states its intention to rely on the doctrine of governmental immunity in this matter and would show that the causes of action alleged against the City herein are barred, in whole or in part, by the doctrine of governmental immunity.

7. The City is immune from liability and from attorney's fees under common law.

8. The City affirmatively pleads that it cannot be held vicariously liable as a matter of law for any negligent and/or grossly negligent acts of its police officers and/or employees.

9. Without waiving any of the foregoing, the City, a Texas home-rule municipality and a governmental unit, specifically pleads, and incorporates herein by reference, the provisions of TEX. CONST. art. 11, § 13, and the provisions of the Texas Tort Claims Act. § 101.001, *et seq.* TEX. CIV. PRAC. & REM. CODE. The City specifically states its intention to rely on such provision of the Constitution and to further rely on each and every provision of the Texas Tort Claims Act in this matter, including, but not limited to, each and every defense, notice requirement, time limit, maximum liability limit, exclusion from liability, and prerequisite to suit provided in such Act.

10. The City affirmatively pleads that it cannot be held liable under the theory of *respondeat superior* for any of Plaintiff's claims.

11. Without waiving any of the foregoing, the City incorporates by reference and states its intention to rely on all provisions of Chapter 33, Texas Civil Practice and Remedies Code, in this matter and would specifically show that, in the unlikely event any party is awarded damages against this City in this cause, any such award must be reduced in accordance with the provisions of such Chapter.

WHEREFORE, PREMISES CONSIDERED, Defendant City of Fort Worth prays that this proceeding be dismissed, that Plaintiffs takes nothing by this suit, and that Defendant City of Fort Worth be granted such other and further relief, both general and special, at law or in equity, to which it may show itself justly entitled.

Respectfully submitted,

/s/ Lynn M. Winter

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CERTIFICATE OF SERVICE

This is to certify that on this 27th day of May, 2021, a true and correct copy of the foregoing document was delivered in accordance with the Texas Rules of Civil Procedure to:

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s/ Lynn M. Winter
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